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ELECTRONICALLY FILED
July 27, 2009

8 Proposed Attorney for Debtors

9 UNITED STATES BANKRUPTCY COURT

10 DISTRICT OF NEVADA

11 —ooOoo—

12 In Re:

13 WES CONSTRUCTION COMPANY,
14 INC., a Nevada corporation,
15 HEAVY EQUIPMENT SERVICES, LLC,
16 a Nevada limited liability company,

Case No. BK-N-09-52177-GWZ (Lead)
Case No. BK-N-09-52178-GWZ
Case No. BK-N-09-52181-GWZ
(Jointly Administered)

17 TRUCKING SERVICES, LLC,
18 a Nevada limited liability company,

**OBJECTION TO SECURED AND
UNSECURED CLAIM OF MB
FINANCIAL BANK, N.A.**

19 Debtors.

(No Hearing Required)

20 _____/
21 Debtors, by and through their counsel, Alan R. Smith, Esq. of the Law Offices of Alan
22 R. Smith, hereby object to any secured and unsecured claim of MB Financial Bank, N.A.
23 (hereinafter "MB Financial"). This objection is based upon LR 3007, the points and
24 authorities set forth below, the pleadings and papers on file herein, and such other matters
25 and evidence as may be presented at any hearing hereon.

POINTS AND AUTHORITIES

26 On July 6, 2009, the Debtors filed voluntary petitions commencing their case under
27 Chapter 11, Title 11, United States Code. The Debtors continue to operate their business as
28 Debtors-in-possession.

In various pleadings filed before this Court, MB Financial has asserted a secured and
unsecured claim against the Debtors based upon a financing arrangement with MB Financial.
On July 27, 2009, the Debtors filed their complaint for recovery of preferential payments and

1 for equitable subordination (the "Complaint"). In the Complaint, the Debtors allege that MB
2 Financial received a preferential payment derived from the sale of certain equipment owned
3 by the Debtors in which MB Financial did not have a security interest. That payment totaled
4 approximately \$362,719.00. Pursuant to Section 502(d),

5 "the court should disallow any claim of any entity from which property was
6 recoverable under section ... 550 ... or that is a transferee of a transfer
7 avoidable under section ... 547 ... of this title, unless such entity or transferee
has paid the amount, or turned over any such property, for which such entity
or transferee is liable under section ... 550"

8 MB Financial has failed to turn over the sum of \$362,719.00, together with accrued interest,
9 which it received as a preferential payment. Accordingly, the Debtors hereby object to any
10 claim filed by MB Financial, and requests that the same be denied.

11 DATED this 27th day of July, 2009.

12 LAW OFFICES OF ALAN R. SMITH

13 By: /s/ Alan R. Smith
14 ALAN R. SMITH, ESQ.
Proposed Attorney for Debtor